

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

MAKE THE ROAD NEW YORK and  
MAKE THE ROAD CONNECTICUT,

Plaintiffs,

v.

Case No.: 1:18-cv-02445-NGG-JO

U.S. DEPARTMENT OF HOMELAND  
SECURITY, OFFICE OF THE  
SECRETARY OF HOMELAND  
SECURITY, U.S. CITIZENSHIP AND  
IMMIGRATION SERVICES, U.S.  
DEPARTMENT OF JUSTICE, OFFICE  
OF THE ATTORNEY GENERAL,  
OFFICE OF THE SOLICITOR  
GENERAL, and OFFICE OF LEGAL  
COUNSEL,

Defendants.

**MOTION FOR A STAY OF PROCESSING DEADLINES FOR DEPARTMENT OF  
HOMELAND SECURITY AND THE DEPARTMENT OF JUSTICE OFFICE OF  
INFORMATION POLICY**

The United States of America hereby moves for a stay of all FOIA processing deadlines as applied to the Department of Homeland Security (DHS) and the Department of Justice Office of Information Policy (OIP) in the above-captioned case.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the DHS. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees of the DHS are prohibited from working, even on a voluntary basis, except in very limited circumstances,

including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3. Undersigned counsel for the Department of Justice therefore requests a stay of all FOIA processing deadlines as applied to DHS and OIP until Congress has restored appropriations to the Department.

4. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. The Government requests that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

5. Opposing counsel has authorized counsel for the Government to state that Plaintiffs take no position with respect to this motion.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of all FOIA processing deadlines as applied to DHS and OIP in this case until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Dated: January 11, 2019

Respectfully submitted,

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United States Attorney

MARCIA BERMAN  
Assistant Branch Director

/s/ Rachael L. Westmoreland  
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